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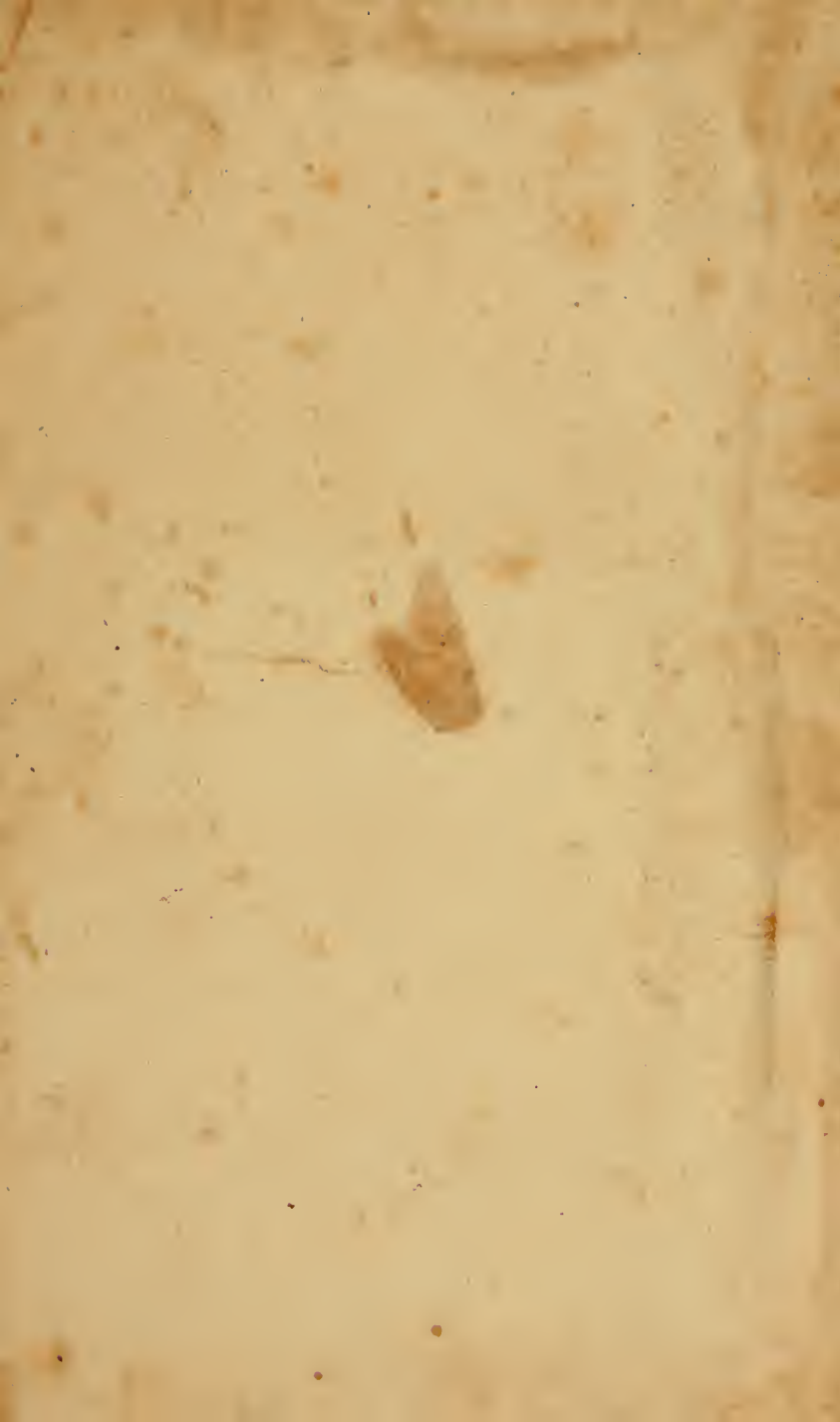
PRINCETON, N. J.

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REPORT

OF A

COMMITTEE APPOINTED

BY THE

PENNSYLVANIA SOCIETY,

FOR

DISCOURAGING THE USE

OF

ARDENT SPIRITS.

TO EXAMINE AND REPORT WHAT AMENDMENTS OUGHT TO BE
MADE IN THE LAWS OF THE SAID STATE, FOR THE

SUPPRESSION

OF

VICE AND IMMORALITY,

PARTICULARLY THOSE AGAINST

GAMING.

READ AND ADOPTED, FEBRUARY 14, 1828.

PRINTED BY ORDER OF THE SAID SOCIETY.

PHILADELPHIA :

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1828.

REPORT, &c.

The Committee appointed "to examine and report what amendments ought to be made in the laws for the suppression of Vice and Immorality, particularly those against Gaming,"

RESPECTFULLY REPORT:

That the subject of VICE and IMMORALITY, particularly those branches of it which immediately relate to *Drunkenness, Gaming, and Disorderly sports and dissipation*, has not escaped the attention of the legislature, and accordingly many wholesome laws to correct such abuses have from time to time been enacted and are still in existence. Your committee need hardly state that the subject is one of a very extensive nature, and that all the topics which it embraces may be said to be most important to the interests of the community. *Drunkenness, Profanity, Horse-racing, Gaming, Tippling-houses, Foreign-Lotteries*, and a thousand other crimes whose tendency is directly to affect the public morals, come within its pale: some of these offences have already been referred to other committees appointed by your body, and therefore preclude your committee from their investigation; whilst others, such as *Foreign-Lotteries*, and *Oyster-cellars*, ought to be separately considered by special committees hereafter to be appointed; and your committee believe they discharge their duties and fulfil the intentions of this society in limiting their inquiries to *Drunkenness, Gaming, and Violations of the Sabbath*. Under those three heads they will consider the laws which are in force and apply to such offences, the defects which exist in those laws, and lastly the remedies which your committee suggest for curing those defects.

I. The law distinguishes DRUNKENNESS into two kinds; *Occasional Drunkenness* and *Habitual Drunkenness*, and besides annexing to the latter the pains and penalties which are attached to the former, it adds the loss of pro-

perty, both real and personal ; wisely considering the habitual drunkard as a mad-man, or *non compos mentis*, and therefore incapable of managing his estate.

1. *Occasional Drunkenness.*

By the III, IV, and XII sections of an Act entitled “ *An Act for the prevention of vice and immorality, and of unlawful gaming, and to restrain disorderly sports and dissipation.*” (Purd. Dig. 686, last ed.) it is provided that

“ If any person shall intoxicate him or herself by the excessive drinking of spirituous, vinous, or other strong liquors, and shall be convicted thereof, he or she shall forfeit and pay the sum of sixty-seven cents for every such offence ; or if such person shall refuse or neglect to satisfy the said forfeiture, or goods and chattels cannot be found, whereof to levy the same by distress, he or she shall be committed to the house of correction of the proper county, not exceeding twenty-four hours.

SECT. IV. The justices of the Supreme Court severally, throughout this state, every president of the courts of Common Pleas within his district, every associate Judge of the courts of Common Pleas, and every justice within his county, the mayor and aldermen of the city of Philadelphia, and each of them, within the limits of said city, and each burgess of a town corporate, within his borough, are hereby empowered, authorised and required to proceed against and punish all persons offending against this act, and every person who shall profane the Lord’s day, or who shall profanely curse or swear, or who shall intoxicate him or herself, as mentioned in the next preceding section of this act ; and for that purpose each of the said justices or magistrates severally may and shall convict such offenders, upon his own view and hearing, or shall issue, if need be, a warrant, summons or *capias* (according to the circumstances of the case,) to bring the body of the person accused as aforesaid before him ; and the same justices and magistrates respectively shall, in a summary way, inquire into the truth of the accusation, and upon the testimony of one or more credible witnesses, or the confession of the party, shall convict the person who shall be guilty as aforesaid, and thereupon shall proceed to pronounce the forfeiture incurred by the person so convicted, as herein before directed : and if the person so convicted, refuse or neglect to satisfy such forfeiture immediately, with costs, or produce goods and chattels whereon to levy the said forfeiture, to-

gether with costs, then the said justices or magistrates shall commit the offender without bail or mainprize, to the house of correction of the county wherein the offence shall be committed, during such time as is herein before directed, there to be fed upon bread and water only, and to be kept at hard labour; and if such commitment shall be in any county wherein no distinct house of correction hath been erected, then the offender shall be committed to the common gaol of the county, to be therein fed and kept at hard labour as aforesaid: (here follows the form of the conviction.) *Provided always*, that every such prosecution shall be commenced within *seventy-two* hours after the offence shall be committed.

SECT. XII. One moiety of the forfeitures in money, accruing and becoming due for any offence against this act, shall be paid to the overseers of the poor of the city, borough or township, wherein the offence shall be committed, for the use of the poor thereof, and the other moiety to the person or persons who shall prosecute and sue for the same; and the inhabitants of such city, or other place shall, notwithstanding, be admitted witnesses to testify against any person who shall be prosecuted for any offence by virtue of this act, *provided always*, that no person shall be prosecuted or convicted for any offence against this act, unless such prosecution be commenced within thirty days after the offence has been committed.

One of the great objects which the Legislature had in view in passing these laws, was to prevent and punish that species of drunkenness which is *publicly* committed, and is therefore always accompanied by some gross and scandalous indecency, and yet it is singular that these laws, however excellent they may be in other respects, are in this particular extremely defective, and have become in a great measure useless. This defect, which is altogether *practical*, arises from their wanting proper clauses providing for their own execution. In making this remark, your Committee are not to be understood as saying, that they contain no executory provisions of any description; an oversight of this kind, on the part of the framers of them, who seem to have given the subject of occasional drunkenness considerable attention, would indeed be extraordinary. For it will at once be perceived upon reading them, that they do prescribe a manner in which they are to be carried into effect, but they do it in such a way as to make it merely the duty, and not the interest as well as the duty of the Officers of Justice to see to their execution; so that if the culprits

should chance to have no property, (and these are mostly those upon whom these laws do operate,) the officers can receive no compensation for their services, and although they may have been at great charges in conveying such persons to the Magistrate's Office, the House of Correction, or the County Goal, they are not even entitled to reimbursement. A Constable, therefore, who sees a person lying intoxicated in the streets, although he may be aware that it is his duty to carry such offender before a neighbouring Justice of the Peace, in order to procure his conviction, will, instead of feeling a desire to do so, entirely neglect it; and the more wretched, loathsome, and indecent the object, the less inducement will he have to remove it. Thus is it in such cases most impolitic and unwise to make the Officer's compensation for services, and the expenses attendant upon such convictions contingent and to depend upon the ability of the offender; and this may be the reason why the drunkard is so often seen in the way side, even on a Sabbath, exposed for hours to the public gaze, and outraging all propriety by his beastly condition.

Taking human nature as it really is, and not as it ought to be, your Committee are of opinion that, in order to have laws of this nature properly executed, the execution of which is always a disagreeable and oftentimes a most irksome task, some reward should be granted to the Magistrate and Constable upon their due execution, by allowing them a reasonable compensation for their services, and by reimbursing their necessary charges and expenses in the execution of their duties, to be paid out of the funds of the city or county in which the offence may have been committed, in case the offender shall be unable to satisfy the same.

2. *Habitual Drunkenness.*

The pernicious effects that were likely to result to the wife, children, or other connections of an individual in possession of property, from his repeating the crime of drunkenness, do not appear to have presented themselves to the consideration of our Legislature previous to the year 1819, nor was it thought necessary, before that time, to deprive the habitual drunkard of the power of wasting it to the ruin and impoverishment of his family. As a public wrong, *habitual drunkenness* was believed to be sufficiently provided for by the laws against *occasional drunkenness*, and the Legislature would not suppose that a man could so far

forget the ties of blood and kindred, as to bring his natural relations to want and misery, merely to gratify a vitiated appetite. Yet such is human nature, and such the powerful influence of the vice of drunkenness, that it banishes from the mind all other considerations save those which relate to its immediate indulgence !

Upon the existing laws against habitual drunkenness, these observations may be made—that they look upon it as of a deeper dye than occasional drunkenness—that they presume the possibility of the habitual drunkard's reform, and therefore offer him strong inducements to correct this evil propensity—and lastly, they endeavour to debar him of the ordinary ways and means by which it may be gratified. Before your Committee recite those laws, they may be allowed to express their sense of the wisdom and foresight which mark many of their provisions, however defective they may be in the others, and their deep regret that they are not oftener carried into execution, certain as they are that the execution of them would more than once save many a respectable family from ruin, and many an unfortunate drunkard from destruction. The general ignorance which prevails in the community with respect to them, may account for their very rare execution, and renders it highly desirable that they should be published in such a mode as to make them familiar to every member of society.

ACT of 25th February, 1819. 7 Smith p. 155.

An Act relative to habitual drunkards.

1. SECT. I. Upon application by petition of any relation by blood or marriage, of any citizen of this commonwealth, setting forth that such person by reason of habitual drunkenness, has become incapable of managing his or her estate, and is wasting and destroying the same, it shall be lawful for the court of Common Pleas of the county in which such person may reside, to appoint commissioners, and issue their precept to the same, who shall thereupon proceed in the same manner as has been heretofore used in cases of persons *non compotes mentis*. And if upon return of the commission and inquisition thereon to the said court, it shall be found by said inquisition that such person, by reason of habitual intoxication or drunkenness, has become incapable of managing his or her estate, it shall be lawful for the said court of Common Pleas to appoint at least two persons, who shall

not be heirs or next of kin to said person, to be guardians and trustees of said person.

2. SECT. II. The guardians and trustees, so as above appointed, shall have the care and management of the real and personal estate of the said habitual drunkard, and shall from time to time apply so much thereof, as shall be necessary, to his or her support and maintenance, and to the support of his or her family, and to the payment of his or her just and lawful debts ; taking care to reserve the principal, unless the income thereof shall not be sufficient, giving security to the said court for the faithful performance of said trust, and duly to account at least once in every year for such estate, property or funds, as may come into their hands. And said court are hereby authorised and required to settle and adjust the same, without fees to the court, the officers thereof, or the commissioners to be appointed under this act. And it shall be also lawful for the said court, in like manner as in cases of persons *non compotes mentis*, upon such examination from time to time, as they may see proper, and upon petition and full proof being made, that such habitual drunkard has become reformed and habitually sober, to discharge the said inquisition and restore him or her to all his or her estate, rights and privileges : *Provided*, That the real and personal estate of such habitual drunkard, shall not at any time be liable for any contract made by the said drunkard, between the time of finding the inquisition aforesaid, and the discharge of the same by the court in the manner aforesaid : *Provided also*, That no petition shall be received or acted upon, from a wife against her husband, or by a child against his or her parent.

ACT of 19th of January, 1822. 7 Smith 488.

A Supplement to the Act relative to habitual drunkards.

3. SECT. I. It shall and may be lawful for the guardian or guardians, trustee or trustees of any person, found by an inquest in the form prescribed by the act to which this is supplementary, to be an habitual drunkard, as often as they shall find the personal property and proceeds of the real estate of said habitual drunkard inadequate to the payment of his debts, and the support of himself and family, to make a representation on oath or affirmation to the court of Common Pleas of the county in which he resides, of the amount of debts due by him, so far as they shall have come to their

knowledge, and the sum necessary for his support and that of his family, if he have any, and of the amount of his personal property, and to make application by petition to said court for leave to mortgage or sell a part or the whole of his real estate; and the court shall, if they adjudge the personal property and proceeds of the real estate inadequate to the purpose aforesaid, allow the said guardian or guardians, trustee or trustees, to mortgage or make sale of so much of the real estate aforesaid, as said court shall deem necessary for the payment of the debts, and the support of the said habitual drunkard and his family, if he have any.

4. SECT. II. Before the guardian or guardians, trustee or trustees aforesaid, shall proceed to the sale of the said estate, they shall give at least thirty days public notice of the time and place of such sale, by ten or more written or printed advertisements, put up at ten or more of the most public places in the county in which the land or real estate lies; they shall also give a further notice of such sale at least once a week for three weeks successively, in one or more newspapers printed and published in the said county; but if there be no newspaper or newspapers published therein at the time, then in one or more newspapers that may be published nearest thereto; and they shall also give such other or further notice of such sale as the aforesaid court in its discretion may deem necessary. And the guardian or guardians, trustee or trustees aforesaid, shall bring their proceedings and sale into the court of Common Pleas, at the next regular term, and the said court shall have power to confirm or set aside the same, as to them shall seem most proper: *Provided*, That the guardian or guardians, trustee or trustees aforesaid, before they proceed to mortgage or convey, shall give bond with sufficient surety, to be approved of by the court, to dispose of the proceeds of the sale in discharge of the amount borrowed, or of the debts of said habitual drunkard, and for the maintenance of himself and family, if he have any, or to pay over the same to the successor or successors of such guardian or guardians, trustee or trustees, or to the said habitual drunkard, if he shall become reformed and habitually sober, or to the heirs and legal representatives of said habitual drunkard, as the case may be.

ACT of 2d April, 1822. 7 Smith p. 604.

A further Supplement to the act, entitled, 'An Act relative to habitual drunkards.

5. SECT. I. Upon application by petition, of one or more

persons related by blood or marriage to any citizen or inhabitant of this commonwealth, who may not be seized or possessed of any estate, setting forth that such person has become an habitual drunkard, to the great injury of himself and distress of his family, it shall and may be lawful for the court of Common Pleas in the county in which such person resides, to appoint commissioners, and issue their precept to the same, who shall proceed agreeably to the first section of the act to which this is a supplement, and if upon return of the commission and inquisition thereon, it appears that such person has become an habitual drunkard, to the injury of himself, or injury and distress of his family, the same proceedings shall be had as are directed by said act.

6. SECT. II. If any innkeeper, distiller, grocer, or other person shall receive notice from the guardians or trustees of an habitual drunkard, not to sell him any liquor, and shall after said notice, sell to such habitual drunkard, or to any person for him, any wine, spirituous or mixed liquors, every such person, shall on conviction thereof before any mayor, alderman or justice of the peace, forfeit and pay a fine of ten dollars for each and every such offence, which fine or forfeiture shall be recoverable as other debts of the same amount are by law recoverable, one moiety thereof to the supervisors of the highways, for the purpose of repairing the streets or roads in the ward, borough or township wherein the same shall have been recovered, and the other moiety to the person who shall sue for and recover the same.

From the whole scope and language of the preceding laws it may be inferred, that it was the intention of the Legislature to consider habitual drunkenness as a crime, to distinguish it from occasional drunkenness, and to inflict upon it other punishments than those to which it was already subjected, in consequence of falling in some measure under the denomination of the latter. Those punishments are inflicted upon an offender only through the medium of his property; why the laws did not extend the punishments farther, so as to meet the offender who had no property, is not easy to determine, unless perhaps it was supposed, should corporal punishments be imposed upon him on conviction of this offence, relations, and others who are immediately interested in these matters, might be restrained, out of pity for the offender, from suing out a commission of habitual drunkenness against him, when they knew that such punishments would be the result of the commission—and thus would the laws become a mere dead letter. Whether relations would be so restrained, should the laws receive a modification of this kind, your

Committee do not pretend to say ; nevertheless, they must observe, they have some reasons for thinking that it will make but little difference with regard to the execution of these laws upon the habitual drunkard, who has no property, real or personal, whether habitual drunkenness be punished corporally or not, when that execution is left to be effected through the instrumentality of relations alone. For since the passage of these laws, there has been no instance, within the knowledge of your Committee, at least in the city and county of Philadelphia, of the relations of a poor person suing out against him a commission of habitual drunkenness ; and indeed the expense and trouble incident to suing out this commission will seldom fail to prevent relations from availing themselves of it, when the offender has not the means to satisfy the expenses, and has no property which may be taken from him, and vested in trustees for the benefit of his family.

However reluctant your Committee would be to swell the criminal code of our state, they still entertain the opinion that habitual drunkenness is a crime of a more pernicious tendency than occasional drunkenness—that it is entitled to severer punishments, and therefore should be punished as a distinct offence, by other punishments than those which now exist. What those other punishments ought to be, is a matter that requires much consideration, and is too intricate a subject to be determined by persons of the inexperience of your Committee ; yet by way of suggestion, they may be allowed to remark, that a proper corporal punishment inflicted upon an habitual drunkard, who was fully proved to be such, might both reform him and intimidate others from committing a similar offence. By corporal punishment your Committee are not to be understood as meaning whipping, or the like direct inflictions upon the body, which are cruel in their nature, and in lieu of reforming, harden the offender ; and which, fortunately for mankind, the wisdom of the age has exploded ; but they use the term to express a confinement, not in a common gaol or penitentiary, but in some building of a retired and healthy situation, and specially appropriated to the reception of habitual drunkards.

With the present facilities for obtaining liquors, there does not exist any mode by which habitual drunkards may be effectually deprived of the use of them, with a reasonable prospect of reformation and without danger to their morals.*

* The Committee are here to be understood as expressing no opinion as to the efficacy of Dr. Chamber's Remedy for Intemperance, or of any other medicines of a like description.

There are but *three* places of a public nature in which they may, by their own consent however, either express or implied, for the laws give no such powers to any persons, and not by compulsion, be confined by their friends and relations, and all those places are liable to serious and well-founded objections; and it would be sheer folly to attempt to debar them from liquors and yet allow them their personal liberty. Those places are *Hospitals*, *Poor-houses*, and *Gaols*. Hospitals, besides being expensive and of course beyond the reach of the poor, are subject to this disadvantage—they are governed by general rules which are not calculated to reform the patient, but to heal a particular disease under which he may be suffering, and when that is effected he is immediately discharged. In addition it should be remarked, that the great number of persons labouring under all kinds of diseases, which always crowds hospitals, renders them unhealthy, converts them into places of public resort, and destroys that sort of tranquility and retirement, which is so essentially necessary to complete the reformation of the habitual drunkard. Hence it is that few habitual drunkards have been permanently reformed by a residence therein. To your Committee, who believe that habitual drunkenness is a moral as well as a physical disease, and requires a remedy that will operate both upon the mind and the body, this does not therefore appear extraordinary. Poor-houses and gaols are every way more objectionable as residences for habitual drunkards than hospitals, principally because they are receptacles for the worst and most degraded of men, whose morals are of the lowest order, and with whom an association is sure to produce contamination: moreover, the circumstance of a person's having once resided in either of them for the shortest possible time, will forever afterwards exclude him from respectable society. Other and powerful objections might be urged against such places as residences for drunkards, but those, thus briefly stated, will, it is presumed, be deemed sufficient to show that they are inadequate to a permanent reformation of such persons, and to prove the necessity of buildings being erected and maintained exclusively for the reception of habitual drunkards.

A confinement in a building of the kind last mentioned, for one or more years, as the nature of the case might require, together with a suitable diet and exercise, would afford the habitual drunkard opportunities for reflection, and would be such a change in his habits and course of life as might perhaps wean him forever from the vice of drunkenness.

The expense of erecting and maintaining such an establish-

ment in each county, might easily be defrayed by a tax to be levied for that particular purpose, upon all taverns in that county. In order to be clearly understood upon this point, which your Committee regard as very important, and entitled at least to inquiry, they will take up any particular portion of the state; for instance, the city and county of Philadelphia, in which there are without doubt *twenty-five hundred* licensed taverns, to say nothing of the vast number of tippling houses, which, being violations of the law, cannot enter into an investigation of this kind. If an annual tax, exclusive of the sum to be paid for the license, of *twenty* dollars were levied upon each of those taverns, a yearly sum of *fifty thousand* dollars would be created; the first payment of which might be appropriated to the erection of an establishment for the reception of the habitual drunkards residing in the said city and county upon the plan proposed, and the subsequent payments to its support. Such a building with such an income, would be sufficient to support all such drunkards in the said city and county; and so would it be with every other city or county in the state; for your Committee are convinced that the number of drunkards in any particular place, always does and will bear a relative proportion to the number of taverns therein existing; so that no fears need be entertained as to the sufficiency of the tax for the objects proposed. These establishments might be placed under the controul and direction of the guardians of the poor of the township or district in which the same were located, or of commissioners appointed for that special purpose. This plan would cause good to arise out of evil, or, if it may be proper to use a figure in a report, would make taverns, like the spear of *Achilles*, heal the very wounds they themselves had inflicted.

Your Committee would therefore respectfully propose, that habitual drunkenness be made a distinct offence in the criminal code of Pennsylvania, and punishable as such by indictment, in addition to the pains and penalties to which it is now subjected by the laws relative to habitual drunkards—that a further tax of \$20 or more, *per annum*, be imposed upon all taverns and public houses in the state, to be paid at the time the licenses for keeping such taverns and public houses are granted or renewed, which shall be appropriated to the erection and support of houses for the reception of habitual drunkards in each of the counties—that proper rules be adopted for the government of the said houses—and that whenever it shall be found by inquisition or otherwise, that

any person hath become an habitual drunkard, it shall be lawful for the court before whom the same shall be returned or tried, besides depriving the party of his property if he hath any, and vesting it in trustees agreeably to the said laws relative to habitual drunkards, to order and adjudge, that the said person be confined in the said house for the reception of habitual drunkards, for one or more years as the said court may deem necessary for his reformation, and be treated therein in the manner prescribed by the said regulations. Also the costs attendant upon all such inquisitions or indictments, should be paid by the party so found to be an habitual drunkard, when he has property sufficient for that purpose, but when he has none, by the city or county in which he may reside; and a reasonable compensation should be allowed those officers of justice whose duty it should be to execute the said laws.

II. GAMING.*

Your Committee deem it altogether unnecessary to enter upon a detail of the evils which arise to society from this dreadful vice: common sense, the opinions of the wise and the good, nay, the admissions of its very votaries and victims, proclaim it to be one of the bitterest drugs that have been dropped into the cup of life. It is sufficient for them that it is intimately connected with Intemperance, and being so, has been thought worthy of consideration by this society.

Your Committee, from their own knowledge and from information derived from creditable sources, do believe that gaming to a very considerable extent is carried on in the city and county of Philadelphia; and one of your Committee has now in his possession several written communications made to him as a magistrate, by respectable individuals, complaining that certain of their relations were constantly losing their money by gaming at particular public houses, thereby depriving their families of the means of support, and praying the interference of the law. But it is not to be supposed when so many laws exist against this crime, that it should still be practiced in the face of day and in the full view of the ministers of justice—a supposition of this kind would infer such a state of morals and such a want of respect for the law as are by no means founded in fact, and it is honourable to the magistrate and to the constable, that the dice box and the faro-table or other device for gaming are rarely, if ever, open-

* (Vide Purd. Dig. 315, last ed.)

ly exhibited, even in the suburbs upon days of public rejoicing; but the gaming to which your committee allude is that which is carried on in secret and retired places, removed from the eye of the officer, or under false and cunning pretences feigned for the purpose of evading the laws, which render the detection of this crime, if not impossible, at least, very difficult. It is to this branch of gaming your Committee would particularly draw your attention, and here it is that our laws prove to be defective. There is always a great difficulty in supporting prosecutions for gaming, which are rare in their occurrence, and therefore sometimes unpopular: the parties to the game, who are the best and oftentimes the only witnesses, under false notions of honour, believe themselves bound to disclose nothing which has a tendency to criminate their companions in guilt, and of course will not willingly testify; and it is too hazardous an experiment to venture such a prosecution upon reluctant testimony, or upon presumptive or circumstantial evidence. If this defect of testimony be incident to all prosecutions for gaming and tend to destroy them, how much more will it operate against a prosecution the object of which is to punish an individual for gaming, where that gaming has been in some secret situation, and where the only witnesses to the fact are the parties themselves? Officers of justice will seldom be able to detect the offenders in the very act of playing. So long, therefore, as this difficulty of detection exists, and it will exist as long as an opportunity for gaming is afforded, will the present laws be found to be defective in restraining clandestine gaming.

Since then the commission of this crime is so hard to be proved, it becomes a matter of grave consideration whether the crime itself may not be reached by some legal provision. Your Committee believe that the end of all criminal laws is not so much to punish offenders as it is to prevent the commission of crime, and that it is in the body politic, as it is in the human body, much wiser to anticipate the disease, than to allow the disease to arise and then to apply the remedy. One of the best modes to prevent the commission of any given crime, is to remove all opportunities and means for committing it; especially by either depriving the parties of the instruments by which that crime is to be perpetrated, or by throwing such obstacles in the way of their obtaining them as to amount to a deprivation. To allow a person the possession of a thing when there is every probability of his misusing it, and afterwards to punish him in case he does so,

is much more harsh and unjust than to deprive him of it in the first instance, and to render it certain that he never will abuse it. In the one case he is entrapped into the commission of a crime, whilst in the other he loses a mere possession, but he escapes a temptation and a real danger. The laws above referred to on *gaming*, instead of absolutely prohibiting tavernkeepers and others of a like description, from having in their possession any Billiard table, E. O. table, or other device for gaming, regard only the purpose for which those things have been set up and maintained, and where there is no purpose of gaming for money and other valuable thing, permit such persons to possess them. To suffer tavernkeepers to keep such articles in their taverns, even for the amusement of their customers, is to offer facilities for gaming, and to hold out strong inducements to all persons, particularly to the young, to resort to places where their morals and manners are sure to be corrupted; and should even the publican himself be free from any sinister motive, the probability is great, nay, it may be said to be a certainty, that these things will be converted to gaming without his own knowledge: the mode or manner in which the game is to be conducted, may be settled by the parties before they enter his house; he may be ignorant of the arrangement, and the game itself, in its commencement, progress and termination, may present only the appearance of amusement. Your Committee are assured that this arrangement has been frequently adopted and practiced. When tavernkeepers are allowed to possess these things, it is hard to determine for what purpose they are kept, and an officer of justice who enters a public house and finds them, cannot say that there has been gaming, and would not be justified, no matter how strong his own conviction might be of the guilt of the parties, in arresting the landlord and the persons present; but when tavernkeepers are absolutely, under any pretence whatever, forbidden to have them, the possession itself, unaccompanied by any other proof, would be *prima facie* evidence of the gaming, and would be sufficient to support a prosecution.

Your Committee would for these reasons propose that no tavernkeeper or other public housekeeper should be permitted to have in his possession, under any pretence whatever, any Billiard table, E. O. table, or other device for gaming, under such severe pains and penalties as would be sufficient to deter them from violating the law.

III. VIOLATIONS OF THE SABBATH.*

With regard to the laws respecting *violations of the Sabbath*, there is very little to be observed or to be corrected ; and your Committee have only to propose that the 2d Sect. of the Act of 1705, entitled “An Act to restrain people from labour on the first day of the week,” which empowers Constables, and by virtue of their office, requires of them to search public houses suspected to entertain persons drinking and tippling on the first day of the week, commonly called Sunday, or part thereof, and them when found, quietly to disperse, and in case of refusal, to bring the persons refusing before the next Justice, who may commit such persons to the stocks, or bind them to their good behaviour, as to him shall seem requisite ; and declares that the keepers of such public houses as shall countenance or tolerate any such practices, being convicted thereof, by the view of a single magistrate, his own confession, or the proof of one or more credible witnesses, shall for every such offence, forfeit and pay ten shillings as and for the uses therein specified ; should be modified in such a way as to allow such constables and magistrates a reasonable compensation for their services, and to make the city or county in which the offence shall be committed, liable for the costs and expenses attendant upon any such prosecution, in case the offender shall be unable to satisfy the same ; and also the Constables ought to be compelled to perform the said services under the direction of a Magistrate or of some other fit person.

All of which is respectfully submitted.

JOSEPH M. DORAN,	} Committee.
JOHN GOODMAN,	
L. P. GEBHARD, M. D.	

February 14th, 1828.

* Vide Purd. Dig. 775, last ed.









